

HOUSE BILL REPORT

ESSB 5308

As Reported by House Committee On:
Children & Family Services

Title: An act relating to mandatory reporting of child abuse or neglect.

Brief Description: Changing provisions relating to mandatory reporting of child abuse or neglect.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Hargrove and Oke).

Brief History:

Committee Activity:

Children & Family Services: 3/17/05, 3/28/05 [DPA].

Brief Summary of Engrossed Substitute Bill
(As Amended by House Committee)

- Requires any person who is an employee or regular service volunteer of a nonprofit entity, or for-profit entity that provides services to children, who has reasonable cause to believe that a child has suffered abuse or neglect to report the incident if the alleged perpetrator is an employee, contractor, regular service, or occasional volunteer of the same nonprofit or for-profit entity.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: Do pass as amended. Signed by 8 members: Representatives Kagi, Chair; Roberts, Vice Chair; Hinkle, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Darneille, Dickerson, Haler and Pettigrew.

Minority Report: Without recommendation. Signed by 1 member: Representative Dunn.

Staff: Sonja Hallum (786-7092).

Background:

Washington state has a law that requires various persons to report suspected child abuse to authorities. These persons are called "mandatory reporters." Under current law, it is mandatory that certain persons having reasonable cause to believe that a child has suffered abuse or neglect report the incident, or cause the incident to be reported, to the appropriate law enforcement agency or the Department of Social and Health Services (DSHS). There are a number of mandatory reporters listed in the current law.

The reporting requirement also extends to any adult who is able or capable of making a report and who has reasonable cause to believe that a child who resides with them has suffered severe abuse. An individual who is not a mandatory reporter is encouraged by statute to report suspected child abuse to the proper law enforcement agency or the DSHS.

There are certain circumstances under which information may not be disclosed. Washington statutes protect the confidentiality of certain relationships by prohibiting the compelled disclosure of confidences. These relationships include marital, attorney-client, priest-penitent, a parent or guardian of a minor child who is arrested, certain public officers, peer support counselors and physicians.

Current law allows the reporting of suspected child abuse or neglect under the mandatory reporter requirements without it being a violation of the confidential communications privilege only if the reporter is a member of the clergy or a physician.

Summary of Amended Bill:

A person who is an employee or regular-service volunteer of a nonprofit entity, or a for-profit entity that provides services to children, who has reasonable cause to believe that a child has suffered abuse or neglect is required to report the incident to the proper law enforcement agency or to the DSHS if the alleged perpetrator is an employee, contractor, or regular-service or occasional-service volunteer of the same nonprofit or for-profit entity.

The following definitions are provided:

- (a) "Volunteer" means any person who, of his or her own free will, provides goods or services without any financial gain to any agency, instrumentality, political subdivision, or school district of the State of Washington;
- (b) "Occasional-service volunteer" means any person who provides a one-time or occasional volunteer service; and
- (c) "Regular-service volunteer" means any person engaged in specific volunteer service activities on an ongoing or continuing basis.

An exception to the reporting requirement is added to exclude a member of the clergy from having to report communications received solely as a result of a confession that is privileged and required to be kept confidential by the church.

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill clarifies that the reporting requirement only applies if both the person who is required to report and the alleged perpetrator are members of the same nonprofit or for-profit entity. The amended bill restricts the reporting requirement to only volunteers who engage in volunteer activities with the organization on an ongoing or continuous basis, rather than the original bill that applied to all volunteers.

The amendment extends the reporting requirement beyond supervisors to require employees and volunteers to report suspected child abuse or neglect. The amended bill also broadens the category of reporting required in nonprofit entities to include reporting of any suspected child abuse or neglect by an employee or regular-service volunteer, not only the abuse that is perpetrated by someone who coaches, trains, educates, or counsels children as a part of his or her work with the organization.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (Original bill) We are all aware of, and concerned about, the incidents involving clergy. The cleric provide an important service, but there have been some abuses. Much of what is happening is due to a lack of supervision. We decided to address it a different way by focusing on supervisors. This has been a real challenge, but there is a need to make sure the children are protected. This bill is not specific to clergy. It applies to all organizations dealing with children. Whether we are talking about nonprofit or for-profits, a supervisor must report when he or she has knowledge that a child is being abused by a person he or she is supervising. We want to be the language to only get to the people we intend. The spirit is to broaden the reporting of child abuse. Many organizations are moving away from a flat organizational structure to one where people are working among colleagues, and not supervisors. We would like reporting for all organizations. The definitions in this bill make it clear who is responsible for reporting.

Testimony Against: None.

Persons Testifying: (Original bill) Senator Kohl-Welles, prime sponsor; James Flynn, Flynn's Families of Olympia and Spokane; and Donna Christiansen, Young Men's Christian Association and Catholic Conference.

Persons Signed In To Testify But Not Testifying: None.